

# **EXHIBIT A**

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
(HEALTHSOUTH CORPORATION 2002 DERIVATIVE LITIGATION)

WADE TUCKER, derivatively for the )  
Benefit of and on behalf of the Nominal )  
Defendant HealthSouth Corporation, )  
 )  
 ) CIVIL ACTION NO. CV-02-5212  
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 )  
 )  
RICHARD M. SCRUSHY, *et al.*, )

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK )

**AFFIDAVIT OF ROBERT J. GIUFFRA, JR.**

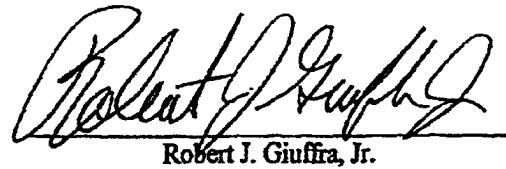
Robert J. Giuffra, Jr., being duly sworn, deposes and says:

1. I am a partner of the law firm Sullivan & Cromwell LLP, counsel for UBS Securities LLC ("UBS Securities"), formerly known as UBS Warburg LLC, in this action. I am a member of the bar of the State of New York.

2. On August 18, 2003, the Third Amended Complaint was served upon UBS Securities, an entity that is not named as defendant in this action. A true and correct copy of the Notice of Service of Process is attached as Exhibit A hereto.

3. As counsel for UBS Securities, I am familiar with the organization of UBS Securities and its affiliates. To the best of my knowledge and belief, neither UBS Group nor UBS Investment Banking is a legal entity incorporated in any U.S. state or foreign country. Rather, UBS Group is a term used to reference numerous UBS entities, including UBS Securities, its affiliates and parent corporation. UBS Investment

Bank is a term that is used to reference the investment banking division of UBS Securities.



Robert J. Giuffra, Jr.

Sworn to before me this  
16th day of October, 2003



\_\_\_\_\_  
Notary Public

GAURAV L SHAH  
Notary Public, State of New York  
No. 02546063029  
Qualified in New York County  
Commission Expires Nov. 12, 2006

## **EXHIBIT B**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

In re HEALTHSOUTH CORPORATION SECURITIES LITIGATION	)	Master File No. CV-03-BE-1500-S
	)	
	)	
This Document Relates To: All Actions	)	
	)	
	)	
In re HEALTHSOUTH CORPORATION STOCKHOLDER LITIGATION	)	Consolidated Case No. CV-03-BE-1501-S
	)	
	)	
This Document Relates To: All Actions	)	<u>CLASS ACTION</u>
	)	
	)	
In re HEALTHSOUTH CORPORATION BONDHOLDER LITIGATION	)	Consolidated Case No. CV-03-BE-1502-S
	)	
	)	
This Document Relates To: All Actions	)	<u>CLASS ACTION</u>
	)	
	)	

JOINT AMENDED CONSOLIDATED CLASS ACTION COMPLAINT FOR  
VIOLATIONS OF THE FEDERAL SECURITIES LAWS [FACTUAL BASIS]

**DEMAND FOR JURY TRIAL**

(v) the 2001 Audit Report was incorporated into the May 2002 Registration Statement by consent dated August 19, 2002.

(d) Accordingly, as set forth under the caption "Experts" in the Registration Statements, the HealthSouth consolidated financial statements as of, and for the years ended, December 31, 1997, 1998, 1999, 2000 and 2001 were included "in reliance upon" E&Y's unqualified audit report, "given upon the authority of [E&Y] as experts in accounting and auditing."

(e) E&Y's role in the fraud alleged herein.

#### **Underwriter Defendants**

122. Defendant UBS AG (referred to as "UBS") is a large integrated financial services institution that through subsidiaries and divisions provides commercial and investment banking services, commercial loans to corporate entities, and advisory services regarding the structuring of financial transactions, including engaging in, or helping to structure derivatives and hedging financial transactions, acting as underwriter in the sale of corporate securities to the public and providing investment analysis and opinions on public companies, including its clients, via reports issued by securities analysts. As detailed herein, UBS is liable as the successor entity for the actions of (a) Warburg Dillon Read, which was merged with UBS Securities in 1998 and was renamed UBS Warburg, LLC, and (b) PaineWebber Group, Inc., with which subsidiary UBS Americas, Inc. merged in 2000 and now does business as UBS Financial Services, Inc. UBS engaged and participated in the scheme to defraud purchasers of HealthSouth securities by rendering all of the above services to HealthSouth, as described in this Complaint. UBS is also liable under the Securities Act in connection with HealthSouth securities offerings. UBS subsequently sold the majority, if not all, of these debt securities to Qualified Institutional Investors ("QIBs").

(a) Defendant UBS Warburg, LLC (“UBS Warburg”), an entity principally owned by UBS AG, was the lead underwriter of the following HealthSouth Integrated Public Offerings: the September 2000 Integrated Public Offering, the February 2001 Integrated Public Offering, the September 2001 Integrated Public Offerings, and the May 2002 Integrated Public Offering. In the September 2000 Integrated Public Offering, UBS Warburg purchased \$148,750,000 of the September 2000 Unregistered Notes; in the February 2001 Integrated Public Offering, UBS Warburg purchased \$187,500,000 of HealthSouth’s Unregistered Notes; in the September 2001 Integrated Public Offerings, UBS Warburg purchased a total of \$275,000,000 of HealthSouth’s September 2001 Unregistered Notes; and in the May 2002 Integrated Public Offering, UBS Warburg purchased \$200,045,139 of HealthSouth’s May 2002 Unregistered Notes.

(b) Defendant PaineWebber, Incorporated (“PaineWebber”), now d/b/a UBS Financial Services, Inc., a subsidiary of UBS AG, was an underwriter of HealthSouth’s March 1998 Integrated Public Offering and its June 1998 Integrated Public Offerings. In the March 1998 Integrated Public Offering, PaineWebber purchased \$5,750,000 of HealthSouth’s March 1998 Unregistered Notes; in the June 1998 Integrated Public Offerings, PaineWebber purchased a total of \$22,500,000 of HealthSouth’s June 1998 Unregistered Notes.

(c) As noted above, PaineWebber subsequently sold the majority, if not all, of these debt securities to QIBs.

123. Defendant Citigroup, Inc. (referred to as “Citi/Salomon”) is a large integrated financial services institution that through subsidiaries and divisions provides commercial and investment banking services, commercial loans to corporate entities, and advisory services regarding the structuring of financial transactions, including engaging in or helping to structure, derivative and hedging financial transactions, acting as underwriter in the sale of corporate

352. Not only did UBS issue glowing “strong buy” analyst reports, but also worked with the other Underwriter Defendants to sell \$2,325,000,000 of Unregistered Notes after UBS concluded that HealthSouth was such a poor credit and business risk that UBS, before it would invest its own money in the Company, would have to quietly reduce its exposure and would have to obtain substantial fees to sell to the investing public Unregistered Notes that, as described above, would be used in substantial part to pay back UBS and the other Underwriter Defendants. UBS’s internal conclusions were not disclosed in UBS’ analyst reports nor in the several Offering Memoranda that UBS and the other Underwriter Defendants used to sell the Unregistered Notes. Indeed, a July 3, 2002 UBS e-mail discloses that UBS actually took steps to conceal its conclusions from the market. That UBS e mail directed UBS to sell-down its position in HealthSouth debt in “30 days or less,” stating that “less than 30 days is better without spooking the market,” and that UBS should “support[] our underwritings, to a point.”

353. Thus, throughout the Class Period, UBS was pocketing millions of dollars a year in interest payments and investment banking fees by engaging and participating in the HealthSouth scheme to defraud and stood to continue to collect these huge fees on an annual basis going forward so long as it helped perpetuate the HealthSouth scheme, while its top executives or managing directors pocketed huge returns on their investments – returns created by the very manipulative devices and transactions that were hiding HealthSouth’s true financial condition and artificially inflating its profit.

354. Lorello and McGahan also spearheaded UBS’s financing of several of HealthSouth’s questionable “off-balance sheet” special purpose ventures. These financings, too, were undertaken only as concessions to the Company in order to continue receiving considerable investment banking fees:

(a) UBS invested with HealthSouth executives in companies that did hundreds of millions of dollars of business with HealthSouth. For example, a newly created UBS-controlled entity was an investor along with Scrushy and other HealthSouth executives and directors in a company called MedCenter Direct.com (“MCD”) formed by these investors with the help of HealthSouth. In late 1999, HealthSouth initially invested \$2.2 million in MCD. The minutes of a March 28, 2001 meeting of UBS’s Leveraged Finance Commitment Committee disclose that UBS approved a \$15 million 7-month term loan facility to MCD. UBS agreed to provide the financing only after HealthSouth guaranteed 100% of the loan, and agreed to limit to \$345 million its access to the Company’s then-existing \$400 million credit facility from UBS. Those minutes explain the substantial nature of the relationship between UBS – particularly Lorello and McGahan, the Co-Chairs of UBS’s healthcare corporate finance team – and HealthSouth. “This financing is purely a relationship concession to HealthSouth, with the full sponsorship of UBSW’s HealthCare CFD [Corporate Finance] team. HealthSouth is a key relationship for CFD and LFG [Leveraged Finance Group] having generated more than \$[9] million in financing fees over the last 9 months. We expect that this flow of lead managed business will continue as HealthSouth continues to term-out its bank debt.” By 2001, HealthSouth was MCD’s major customer, buying over \$100 million a year in medical supplies from this insider-controlled entity – with over 50% of HealthSouth’s facilities purchasing supplies from this company.

355. UBS identified as a “transaction related issue” with respect to this financing the fact that HealthSouth would disclose in its financial statements either the transaction, which UBS referred to as “cosmetic”; the Company’s 100% guarantee of the loan; or HealthSouth’s agreement to restrict its access to its own UBS loan facility. HealthSouth’s non-disclosure did not impede UBS’s approval of the financing.

Superior Court to rescind all insurance policies issued or renewed since September 1998, based on fraud.

688. The market price of the Company's stock, which traded as high as \$31 per share during the Class Period, collapsed to the range of \$0.08 to \$0.11 per share.

#### **LEGAL THEORIES AND CLAIMS**

689. Pursuant to the Court's June 24, 2003 Order, the Stockholder and Bond Classes, and the Merger Subclasses, have set forth, in separate documents, their respective legal theories, claims and prayers for relief.

Plaintiffs demand a jury trial as to all issues so triable.

Dated: January 8, 2004

**FOR THE STOCKHOLDER CLASS**

WHATLEY DRAKE, LLC  
JOE R. WHATLEY, JR.  
RUSSELL JACKSON DRAKE  
G. DOUGLAS JONES (ASB-3880-S82G)

**FOR THE BONDHOLDER CLASS**

DONALDSON & GUIN, L.L.C.  
DAVID J. GUIN (ASB-3461-G67D)  
DAVID R. DONALDSON  
TAMMY McCLENDON STOKES

---

G. DOUGLAS JONES

2323 Second Avenue North  
Birmingham, AL 35202  
Telephone: 205/328-9576  
205/328-9669 (fax)

---

DAVID J. GUIN

Two North Twentieth Street, Suite 1100  
Birmingham, AL 35223  
Telephone: 205/226-2282  
205/226-2357 (fax)

*Liaison Counsel for Stockholder Class*

*Liaison Counsel for Bondholder Class*

MILBERG WEISS BERSHAD  
HYNES & LERACH LLP  
WILLIAM S. LERACH  
EDWARD P. DIETRICH  
KATHLEEN A. HERKENHOFF  
DEBRA J. WYMAN  
VALERIE L. McLAUGHLIN  
ELIZABETH J. ARLEO  
401 B Street, Suite 1700  
San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)

MILBERG WEISS BERSHAD  
HYNES & LERACH LLP  
PATRICK J. COUGHLIN

BERNSTEIN LITOWITZ BERGER &  
GROSSMANN LLP  
MAX W. BERGER  
JOHN P. COFFEY  
JEFFREY N. LEIBELL  
JENNIFER L. EDLIND

---

JOHN P. COFFEY

1285 Avenue of the Americas, 38th Floor  
New York, NY 10019  
Telephone: 212/554-1400  
212/554-1444 (fax)

- and -

---

PATRICK J. COUGHLIN

100 Pine Street, Suite 2600  
San Francisco, CA 94111  
Telephone: 415/288-4545  
415/288-4534 (fax)

- and -  
LOWEY DANNENBERG BEMPORAD  
& SELINGER, P.C.  
NEIL L. SELINGER  
RICHARD BEMPORAD  
THOMAS SKELTON  
VINCENT BRIGANTI  
The Gateway – 11th Floor  
One North Lexington Avenue  
White Plains, NY 10601  
Telephone: 914/997-0500  
914/997-0035 (fax)

CUNNINGHAM BOUNDS YANCE  
CROWDER & BROWN  
JOHN T. CROWDER  
ROBERT T. CUNNINGHAM, JR.  
RICHARD T. DORMAN  
P.O. Box 66705  
Mobile, AL 36660  
Telephone: 251/471-6191  
251/479-1031 (fax)

*Co-Lead Counsel for Stockholder Class and  
the Additional Stockholder Named Plaintiffs*

*Co-Lead Counsel for Bondholder Class*

FOR NSC & TCD STOCKHOLDERS  
SUBCLASS

SCHATZ & NOBEL, P.C.  
ANDREW M. SCHATZ  
330 Main Street  
Hartford, CT 06106  
Telephone: 860/493-6292  
860/493-6290 (fax)

ADDITIONAL NAMED BONDHOLDER  
PLAINTIFF'S COUNSEL

BERMAN DeVALERIO PEASE TABACCO  
BURT & PUCILLO  
MICHAEL J. PUCILLO  
515 North Flagler Drive, Suite 1701  
W. Palm Beach, FL 33401  
Telephone: 561/835-9400  
561/835-0322 (fax)

*Attorneys for Additional Named Bondholder  
Plaintiff State Universities Retirement System  
of Illinois*

FOR HORIZON STOCKHOLDER SUBCLASS

LAW OFFICES OF M. CLAY RAGSDALE  
M. CLAY RAGSDALE  
1929 Third Avenue North, Suite 550  
Birmingham, AL 35203  
Telephone: 205/251-4775  
205/251-4777 (fax)

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**DECLARATION OF ELECTRONIC SERVICE**

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is 401 B Street, Suite 1700, San Diego, California 92101.
2. That on January 8, 2004, declarant will cause the JOINT AMENDED CONSOLIDATED CLASS ACTION COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS [FACTUAL BASIS] to be served electronically on the parties listed on the attached Service List.
3. That there is a regular communication by mail between the place of origin and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 7th day of January, 2004, at San Diego, California.

  
\_\_\_\_\_  
DIANA HOUCK

HealthSouth 02 Email Service List

**HealthSouth 02 (MASTER Combined)**

Service List - 1/7/2004 (02-0385C)

Page 1 of 13

**Counsel For Defendant(s)**

**Henry E. Simpson**  
**Adams and Reese/Lange Simpson LLP**  
**2100 3rd Avenue North, Suite 1100**  
**Birmingham, AL 35203**  
**205/250-5000**  
**205/250-5034(Fax)**

**Peter Q. Bassett**  
**Susan E. Hurd**  
**Alston & Bird, LLP**  
**1201 W. Peachtree Street**  
**Atlanta, GA 30309-3424**  
**404/881-7000**  
**404/881-7777(Fax)**

**Bruce Rogers**  
**Bainbridge Mims Rogers & Smith**  
**P.O. Box 530886**  
**Birmingham, AL 35253**

**Gary H. Baise**  
**Baise & Miller, P.C.**  
**1020 19th Street, N.W., Suite 400**  
**Washington, DC 20036**  
**202/331-9100**  
**202/331-9060(Fax)**

**Henry Frohsin**  
**Harriet Thomas Ivy**  
**Baker, Donelson, Bearman, Caldwell &**  
**Berkowitz, PC**  
**420 North 20th Street, Suite 1600**  
**Birmingham, AL 35203-5202**  
**205/328-0480**  
**205/322-8007(Fax)**

**David McKnight**  
**Baxley, Dillard, Dauphin & McKnight**  
**2008 3rd Avenue South**  
**Birmingham, AL 35233**  
**205/271-1100**  
**205/271-1108(Fax)**

**J. Forrest Hinton**  
**Susan S. Wagner**  
**Christopher C. Haug**  
**Berkowitz, Lefkovits, Isom & Kushner, A P.C.**  
**420 North 20th Street, Suite 1600**  
**Birmingham, AL 35203-5202**  
**205/328-0480**  
**205/322-8007(Fax)**

**Donald M. Briskman**  
**Mack B. Binion**  
**Jeremy S. Hazelton**  
**Briskman & Binion, P.C.**  
**P.O. Box 43**  
**Mobile, AL 36601**  
**251/433-7600**  
**251/433-4485(Fax)**

**HealthSouth 02 (MASTER Combined)**

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Page 2 of 13

Edward D. Buckley, III  
Charles R. Bliss  
Buckley & Klein, LLP  
Atlantic Center Plaza, Suite 1100  
1180 West Peachtree Street  
Atlanta, GA 30309  
404/781-1100  
404/781-1101 (Fax)

Thomas Sjoblom  
Chadbourne & Parke LLP  
30 Rockefeller Plaza  
New York, NY 10112  
212/408-5100  
212/541-5369 (Fax)

Kenneth O. Simon  
Christian & Small LLP  
505 North 20th Street, Suite 1800  
Birmingham, AL 35203-2696  
205/795-6588  
205/328-7234 (Fax)

Mitchell A. Lowenthal  
Carmine D. Boccuzzi  
Stephen T. Ostrowski  
Cleary Gottlieb Steen & Hamilton  
One Liberty Plaza  
New York, NY 10006  
212/225-2000  
212/225-3999 (Fax)

Donald V. Watkins  
Donald V. Watkins, Attorney at Law  
2170 Highland Avenue South, Suite 100  
Birmingham, AL 35205

William P. Hammer, Jr.  
Ernst & Young LLP  
5 Times Square, 36th Floor  
New York, NY 10036  
212/773-3865  
212/773-3928 (Fax)

Erskine R. Mathis  
Erskine Mathis & Associates  
Age Herald Building, Suite 201  
2107 5th Avenue, North  
Birmingham, AL 35203  
205/252-1111  
205/320-1922 (Fax)

Joseph A. Fawal  
Fawal & Spina  
1330 21st Way South, Suite 200  
Birmingham, AL 35205  
205/939-1330  
205/933-0101 (Fax)

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Page 3 of 13

**Daniel A. Angelo**  
**Green Buckley Jones & McQueen**  
**Suite 1010 Park Central**  
**2970 Clairmont Road**  
**Atlanta, GA 30329**  
**404/522-3541**  
**404/522-3677(Fax)**

**J. Michael Ridiker**  
**Thomas L. Krebs**  
**Michael K.K. Choy**  
**Haskell Slaughter Young & Rediker, LLC**  
**2001 Park Place North, Suite 1400**  
**Birmingham, AL 35203**  
**205/251-1000**  
**205/324-1133(Fax)**

**Frederick G. Helmsing**  
**Helmsing, Leach, Herlong, Newman & Rouse, P.C.**  
**150 Government Street, Suite 2000**  
**P.O. Box 2767**  
**Mobile, AL 36652**  
**251/432-5521**  
**251/432-0633(Fax)**

**J. Don Foster**  
**Jackson Foster & Graham LLC**  
**108 St. Francis Street, Suite 1704**  
**Mobile, AL 36602**

**James L. O'Kelley**  
**James L. O'Kelley, Attorney at Law**  
**2001 Park Place North, Suite 300**  
**Birmingham, AL 35203**  
**205/252-9551**  
**205/581-8022(Fax)**

**Stephen A. Strickland**  
**Jeff Strickland & Drennan PC**  
**2320 Arlington Avenue**  
**Birmingham, AL 35205**  
**205/930-9800**  
**205/930-9809(Fax)**

**Don B. Long, Jr.**  
**James F. Henry**  
**Johnston Barton Proctor & Powell LLP**  
**2900 AmSouth/Harbert Plaza**  
**1901 Sixth Avenue North**  
**Birmingham, AL 35203**  
**205/458-9400**  
**205/458-9500(Fax)**

**Richard H. Deane, Jr.**  
**Jones Day**  
**3500 SunTrust Plaza**  
**303 Peachtree Street, N.E.**  
**Atlanta, GA 30308-3242**  
**404/521-3939**  
**404/581-8330(Fax)**

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Robert F. McDermott, Jr.  
 Jonathon Rose  
 Jones Day  
 51 Louisiana Avenue, N.W.  
 Washington, DC 20001-2113  
 202/879-3939  
 202/626-1700 (Fax)

Frederick G. Helmsing  
 Law Office of Frederick G. Helmsing  
 150 Government Street, Suite 2000  
 Mobile, AL 36652

Jackson R. Sharman III  
 Lightfoot, Franklin & White, L.L.C.  
 400 North 20th Street  
 The Clark Building  
 Birmingham, AL 35203  
 205/581-0700  
 205/581-0799 (Fax)

J. Mark Hart  
 London & Yancey, L.L.C.  
 400 Park Tower, 2001 Park Place North  
 Birmingham, AL 35203-2735  
 205/251-2531  
 205/251-8929 (Fax)

Patrick C. Cooper  
 Scott S. Brown  
 Maynard Cooper & Gale, P.C.  
 1901 Sixth Avenue North, Suite 2400  
 Birmingham, AL 35203-2602  
 205/254-1000  
 205/254-1999 (Fax)

Richard F. Ogle  
 Ogle, Liles & Upshaw LLP  
 600 Financial Center  
 505 20th Street North  
 Birmingham, AL 35201-1865  
 205/521-7000  
 205/521-7007 (Fax)

Lanny J. Davis  
 Patton Boggs LLP  
 2550 M Street, N.W.  
 Washington, DC 20037-1350  
 202/457-6000  
 202/457-6315 (Fax)

Richard F. Ogle  
 Scholeil, Ogle, Liles & Upshaw LLP  
 600 Financial Center  
 505 20th Street North  
 Birmingham, AL 35201  
 205/521-7000  
 205/521-7007 (Fax)

**HealthSouth 02 (MASTER Combined)**

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Page 5 of 13

Paul C. Gluckow  
 Michael J. Chepiga  
 Paul C. Curnin  
 Simpson Thacher & Bartlett LLP  
 425 Lexington Avenue  
 New York, NY 10017-3954  
 212/455-2000  
 212/455-2502(Fax)

C. Lee Reeves  
 Sirote & Permutt, P.C. Law Firm  
 2311 Highland Avenue, Suite 500  
 Birmingham, AL 35205  
 205/930-5152  
 205/930-5101(Fax)

Edward P. Welch  
 Skadden, Arps, Slate, Meagher & Flom LLP  
 One Rodney Square, P.O. Box 636  
 Wilmington, DE 19899  
 302/651-3000  
 302/651-3001(Fax)

W. Michael Atchison  
 Anthony C. Harlow  
 Starnes & Atchison LLP  
 100 Brookwood Place, 7th Floor  
 P.O. Box 59812  
 Birmingham, AL 35259  
 205/868-6000  
 205/868-6099(Fax)

Robert Fleishman  
 Steptoe & Johnson LLP  
 1330 Connecticut Avenue, N.W.  
 Washington, DC 20036-1795  
 202/429-3000  
 202/429-3902(Fax)

Robert J. Giuffra, Jr.  
 Sullivan & Cromwell LLP  
 125 Broad Street  
 New York, NY 10004-2498  
 212/558-4000  
 212/558-3588(Fax)

Thomas R. Leuba  
 Sullivan & Cromwell LLP  
 1701 Pennsylvania Ave., N.W.  
 Washington, DC 20006-5805  
 202/956-7500  
 202/293-6330(Fax)

Edward E. Angwin  
 Raymond L. Johnson, Jr.  
 Thomas, Means, Gillis & Seay, P.C.  
 P.O. Drawer 370447  
 Birmingham, AL 35237-0447  
 205/328-7915  
 205/214-6160(Fax)

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Page 6 of 13

H. Lewis Gillis  
 Thomas, Means, Gillis & Seay, P.C.  
 3121 Zelda Court, P.O. Drawer 5058  
 Montgomery, AL 36103-5058  
 334/270-1033  
 334/260-9396(Fax)

Matthew J. Herrington  
 Steven M. Farina  
 Williams & Connolly  
 725 12th Street, N.W.  
 Washington, DC 20005  
 202/434-5000  
 202/434-5029(Fax)

**Counsel For Plaintiff(s)**

Arthur N. Abbey  
 Mark C. Gardy  
 Abbey Gardy, LLP  
 212 East 39th Street  
 New York, NY 10016  
 212/889-3700  
 212/684-5191(Fax)

Daniel L. Berger  
 Lawrence J. Lederer  
 Lane Vines  
 Berger & Montague, P.C.  
 1622 Locust Street  
 Philadelphia, PA 19103  
 215/875-3000  
 215/875-4604(Fax)

Mei E. Lifshitz  
 Bernstein Liebhard & Lifshitz, LLP  
 10 East 40th Street  
 New York, NY 10016  
 212/779-1414  
 212/779-3218(Fax)

Jennifer L. Edlind  
 John P. Coffey  
 Bernstein Litowitz Berger & Grossmann LLP  
 1285 Ave of the Americas, 38th Fl.  
 New York, NY 10019  
 212/554-1400  
 212/554-1444(Fax)

Brent L. Crumpton  
 Brent L. Crumpton P.C.  
 1650 Financial Center  
 505 North 20th Street  
 Birmingham, AL 35203

Evan J. Smith  
 Brodsky & Smith, LLC  
 333 E. City Avenue, Suite 602  
 Bala Cynwyd, PA 19004  
 610/667-6200  
 610/667-9029(Fax)

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Samuel H. Rudman  
 Russell J. Gunyan  
 Cauley Geller Bowman & Rudman LLP  
 200 Broadhollow Road, Suite 406  
 Melville, NY 11747  
 631/367-7100  
 631/367-1173 (Fax)

S. Gene Cauley  
 Cauley Geller Bowman & Rudman, LLP  
 P.O. Box 25438  
 Little Rock, AR 72221-5438  
 501/312-8500  
 501/312-8505 (Fax)

David B. Kahn  
 Mark E. King  
 Elissa C. Chase  
 David B. Kahn & Associates, Ltd.  
 One Northfield Plaza, Suite 100  
 Northfield, IL 60093-1211  
 847/501-5083  
 847/501-5086 (Fax)

David R. Donaldson  
 David J. Guin  
 Tammy McClendon Stokes  
 Donaldson & Guin, L.L.C.  
 Two North Twentieth Street, Suite 1100  
 Birmingham, AL 35203  
 205/226-2282  
 205/226-2357 (Fax)

Paul J. Geller  
 Cauley Geller Bowman & Rudman, LLP  
 2255 Glades Road, Suite 421A  
 Boca Raton, FL 33431  
 561/750-3000  
 561/750-3364 (Fax)

John T. Crowder, Jr.  
 Robert T. Cunningham, Jr.  
 Richard T. Dorman  
 Cunningham Bounds Yance Crowder & Brown  
 P.O. Box 66705  
 Mobile, AL 36660  
 251/471-6191  
 251/479-1031 (Fax)

Stephen Gregory  
 Karen E. Skilling  
 Dice & Gregory LLC  
 2824 Seventh Street  
 Tuscaloosa, AL 35401

Andrew J. Entwistle  
 Robert N. Cappucci  
 William W. Wickersham  
 Entwistle & Cappucci LLP  
 299 Park Avenue, 14th Floor  
 New York, NY 10171  
 212/894-7200  
 212/894-7272 (Fax)

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Jeffrey R. Krinsk  
 Finkelstein & Krinsk  
 501 West Broadway, Suite 1250  
 San Diego, CA 92101  
 619/238-1333  
 619/238-5425(Fax)

Burton H. Finkelstein  
 Finkelstein, Thompson & Loughran  
 1050 30th Street, N.W.  
 Washington, DC 20007  
 202/337-8000  
 202/337-8090(Fax)

John Somerville  
 Galloway & Somerville, LLC  
 11 Oak Street  
 Birmingham, AL 35213  
 205/871-2183  
 205/871-2184(Fax)

Edgar G. Gentle III  
 J. Paul Zimmerman  
 Gentle Pickens Eliason Turner & Ritondo  
 2 North 20th Street, Suite 1200  
 Birmingham, AL 35205  
 205/716-3000  
 205/716-3110(Fax)

Peter A. Lagorio  
 Gilman And Pastor, L.L.P.  
 Stonehill Corporate Center  
 999 Broadway, Suite 500  
 Saugus, MA 01906  
 781/231-7850  
 781/231-7840(Fax)

Steve W. Berman  
 Clyde A. Platt  
 Hagens Berman LLP  
 1301 Fifth Avenue, Suite 2900  
 Seattle, WA 98101  
 206/623-7292  
 206/623-0594(Fax)

Thomas M. Sobol  
 Hagens Berman LLP  
 225 Franklin Street, 26th Floor  
 Boston, MA 02110  
 617/482-3700  
 617/482-3003(Fax)

Marc H. Edelson  
 Jerold B. Hoffman  
 Hoffman & Edelson  
 45 W. Court Street  
 Doylestown, PA 18901  
 215/230-8043  
 215/230-8735(Fax)

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Garve Ivey, Jr.  
Barry A. Ragsdale  
Ivey & Ragsdale  
1615 Financial Center  
505 N. 202 20th Street  
Birmingham, AL 35203

James L. North  
James L. North & Associates  
300 N. 21st Street, Title Building  
Birmingham, AL 35203  
205/251-0252  
205/251-0255(Fax)

Frederic S. Fox  
Hae Sung Nam  
Kaplan, Fox & Kilsheimer LLP  
805 Third Avenue, 22nd Floor  
New York, NY 10022  
212/687-1980  
212/687-7714(Fax)

Lynn Lincoln Sarko  
Derek W. Loeser  
Keller Rohrback LLP  
1201 Third Avenue, Suite 3200  
Seattle, WA 98101-3052  
206/623-1900  
206/623-3384(Fax)

Richard A. Freese  
Langston Sweet & Freese, P.A.  
Morgan Keegan Center  
2900 Highway 280, Suite 240  
Birmingham, AL 35223  
205/871-4144  
205/871-4104(Fax)

D. Joshua Staub  
Law Office of D. Joshua Staub  
16161 Ventura Blvd., Suite 669  
Encino, CA 91436  
310/576-7770  
310/576-1309(Fax)

J. Timothy Francis  
Law Office of J. Timothy Francis  
700 Title Building  
300 21st Street North  
Birmingham, AL 35203

Samuel R. McCord  
Law Office of Samuel R. McCord  
600 Title Building  
300 21st Street North  
Birmingham, AL 35203

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Alfred G. Yates, Jr.

Law Offices of Alfred G. Yates, Jr., P.C.  
519 Allegheny Building  
429 Forbes Avenue  
Pittsburgh, PA 15219  
412/391-5164  
412/471-1033(Fax)

Bruce G. Murphy

Law Offices of Bruce G. Murphy  
265 Llwyds Lane  
Vero Beach, FL 32963  
772/231-4202  
772/234-0440(Fax)

M. Clay Ragsdale IV

Law Offices of M. Clay Ragsdale  
1929 Third Avenue North  
550 Farley Building  
Birmingham, AL 35253-0924  
205/251-4775  
205/251-4777(Fax)

Richard Rosenthal

Law Offices of Richard Rosenthal P.C.  
1930 20th Avenue South  
Birmingham, AL 35209

Richard A. Lockridge

Karen M. Hanson  
Lockridge Grindal Nauen, P.L.L.P.  
100 Washington Avenue South, Suite 2200  
Minneapolis, MN 55401  
612/339-6900  
612/339-0981(Fax)

Neil L. Selinger

Lowey Dannenberg Bemporad & Selinger, P.C.  
One N. Lexington Avenue, 11th Floor  
White Plains, NY 10601  
914/997-0500  
914/997-0035(Fax)

Jack B. McNamee

McNamee & Liddon  
2126 Morris Avenue  
Birmingham, AL 35203

Edward P. Dietrich

Kathleen A. Herkenhoff  
Debra J. Wyman  
Milberg Weiss Bershad Hynes & Lerach LLP  
401 B Street, Suite 1700  
San Diego, CA 92101-4297  
619/231-1058  
619/231-7423(Fax)

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Patrick J. Coughlin  
Milberg Weiss Bershad Hynes & Lerach LLP  
100 Pine Street, Suite 2600  
San Francisco, CA 94111-5238  
415/288-4545  
415/288-4534 (Fax)

Myron M. Cherry  
Myron M. Cherry & Associates LLC  
30 North LaSalle Street, Suite 2300  
Chicago, IL 60602

Roger H. Bedford, Jr.  
Roger Bedford & Associates PC  
P.O. Box 370  
Russellville, AL 35653

Andrew M. Schatz  
Jeffrey S. Nobel  
Patrick A. Klingman  
Schatz & Nobel  
330 Main Street  
Hartford, CT 06106  
860/493-6292  
860/493-6290 (Fax)

Marc A. Topaz  
Schiffren & Barroway, LLP  
Three Bala Plaza East, Suite 400  
Bala Cynwyd, PA 19004  
610/667-7706  
610/667-7056 (Fax)

Robert C. Schubert  
Juden Justice Reed  
Schubert & Reed LLP  
Two Embarcadero Center, Suite 1660  
San Francisco, CA 94111  
415/788-4220  
415/788-0161 (Fax)

David R. Scott  
Michael A. Swick  
Scott + Scott, LLC  
108 Norwich Avenue  
Colchester, CT 06415  
860/537-3818  
860/537-4432 (Fax)

Edward F. Haber  
Thomas G. Shapiro  
Shapiro Haber & Ummy, LLP  
75 State Street  
Boston, MA 02109  
617/439-3939  
617/439-0134 (Fax)

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**James E. Miller**  
**Shepherd, Finkelman, Miller & Shah, LLC**  
**One Lewis Street**  
**Hartford, CT 06103**  
**860/246-0600**  
**860/246-0700(Fax)**

**Scott R. Shepherd**  
**James C. Shah**  
**Shepherd, Finkelman, Miller & Shah, LLC**  
**35 East State Street**  
**Media, PA 19063**  
**610/891-9880**  
**610/891-9883(Fax)**

**Michael Keeley**  
**Strasburger & Price**  
**901 Main Street, Suite 4300**  
**Dallas, TX 75202**  
**214/651-4300**  
**214/651-4330(Fax)**

**Jules Brody**  
**Aaron Brody**  
**Tzivia Brody**  
**Stull, Stull & Brody**  
**6 East 45th Street, 4th Floor**  
**New York, NY 10017**  
**212/687-7230**  
**212/490-2022(Fax)**

**Charles R. Watkins**  
**John R. Wylie**  
**Susman & Watkins**  
**Two First National Plaza, Suite 620**  
**Chicago, IL 60603**  
**312/346-3466**  
**312/346-2829(Fax)**

**Jay F. Guin**  
**Tanner & Guin, LLC**  
**2711 University Blvd., P.O. Box 3206**  
**Tuscaloosa, AL 35403**

**Kenneth J. Vianale**  
**Julie Prag Vianale**  
**Vianale & Vianale LLP**  
**5355 Town Center Road, Suite 801**  
**Boca Raton, FL 33486**  
**561/391-4900**  
**561/368-9274(Fax)**

**Robert I. Harwood**  
**Wechsler Harwood LLP**  
**488 Madison Avenue, 8th Floor**  
**New York, NY 10022**  
**212/935-7400**  
**212/753-3630(Fax)**

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**Paul J. Scarlato**

Weinstein Kitchenoff Scarlato Karon & Goldman  
Ltd.

1845 Walnut Street, Suite 1100

Philadelphia, PA 19103

215/545-7200

215/545-6535(Fax)

**Joe R. Whatley, Jr.**

G. Douglas Jones

Whatley Drake, LLC

2323 Second Avenue North

Birmingham, AL 35203

205/328-9576

205/328-9669(Fax)

**Fred T. Isquith**

Gustavo Bruckner

Wolf Haldenstein Adler Freeman & Herz, LLP

270 Madison Avenue

New York, NY 10016

212/545-4600

212/545-4653(Fax)

**Robert C. Finkel**

Wolf Popper LLP

845 Third Avenue

New York, NY 10022

212/759-4600

212/486-2093(Fax)

## **EXHIBIT C**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

In re HEALTHSOUTH CORPORATION  
SECURITIES LITIGATION ) Master File No. CV-03-BE-1500-S  
)

This Document Relates To: All Actions )  
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)

In re HEALTHSOUTH CORPORATION  
STOCKHOLDER LITIGATION ) Consolidated Case No. CV-03-BE-1501-S  
)

This Document Relates To: All Actions )  
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In re HEALTHSOUTH CORPORATION  
BONDHOLDER LITIGATION ) Consolidated Case No. CV-03-BE-1502-S  
)

This Document Relates To: All Actions  
\_\_\_\_\_  
ANSWER OF THE UBS DEFENDANTS

UBS AG and UBS Securities LLC (formerly UBS Warburg LLC) (collectively, "UBS"), and individual defendants Howard Capek, Benjamin D. Lorello and William C. McGahan (collectively, the "Individual UBS Defendants"), through their undersigned counsel, state as follows for their Answer and Defenses to the (1) Joint Third Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws [Factual Basis] filed April 30, 2007 ("Joint Factual Basis Complaint"); (2) the Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws [Legal Theories and Claims] filed on behalf the putative Stockholder Class on April 30, 2007 ("Stockholder Legal Theories Complaint"); and (3) the Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws [Legal Theories and Claims] filed on behalf of the putative Bondholder Class on April 30, 2007 ("Bondholder Legal Theories Complaint") (collectively, the

Ryan and Mr. Lorello and refer to those e-mail communications for a complete and accurate statement of their contents.

326. Deny the allegations of Paragraph 326, except: (i) admit UBS Warburg received customary investment banking fees from HealthSouth; (ii) admit UBS Warburg purchased a block of HealthSouth stock from Scrushy on May 4, 2002 and resold those shares pursuant to Rule 144A and refer to the May 15, 2002 Form 144 filed with the SEC by Scrushy for a complete statement of the details of Scrushy's May 14, 2002 sale of HealthSouth stock; (iii) admit UBS AG provided financing to MedCenterDirect.com ("MCD"), an entity then partially owned by HealthSouth; (iv) aver HealthSouth's guarantee of the MCD loan was publicly disclosed; (v) aver UBS did not create MCD; (vi) refer to the minutes of the March 28, 2001 Leveraged Finance Commitment Committee and May 6, 2002 Equity Capital Markets Committee Meeting and for a complete and accurate statement of their contents; (vii) admit upon information and belief MCD was a fully operational e-procurement company that provided legitimate services to HealthSouth; (viii) admit UBS AG provided a \$82.5 million loan to First Cambridge HCI Acquisitions, an independent real estate company, in connection with its purchase of healthcare facilities from HealthSouth and HealthSouth guaranteed the repayment of that loan and refer to that agreement for a complete and accurate statement of its terms; and (ix) admit HealthSouth advised UBS that it was not disclosing its guarantee of the First Cambridge loan because it was immaterial.

327. Deny the allegations of Paragraph 327.

328. Deny the allegations of Paragraph 328, except: (i) refer to HealthSouth's SEC Filings, including its Registration Statements, for a complete and accurate statement of HealthSouth's public securities offerings for the period of 1986 to March 1999; (ii) aver UBS

WHEREFORE, the UBS Defendants pray that judgment be entered in favor of them on all claims asserted in the Complaint, and that UBS be awarded its costs and expenses (including attorneys' fees) incurred in this action, together with such other and further relief as the Court may deem just and proper.

Dated: June 11, 2007  
New York, New York

W. Michael Atchison (ATC003)  
Jay M. Ezelle (EZE002)  
Robin H. Jones (JON143)  
STARNES & ATCHISON LLP  
100 Brookwood Place, Seventh Floor  
Birmingham, Alabama 35209  
(205) 868-6000

*Counsel for UBS AG, UBS Securities LLC,  
Howard Capek, Benjamin D. Lorello and  
William C. McGahan*

Thomas Fitzpatrick  
LAW OFFICES OF THOMAS  
FITZPATRICK  
500 Fifth Avenue, 33<sup>rd</sup> Floor  
New York, New York 10110  
(212) 930-1290

*Counsel for Howard Capek*

SULLIVAN & CROMWELL LLP

By: s/ Robert J. Giuffra, Jr.  
Robert J. Giuffra, Jr.  
Brian T. Frawley  
Julia M. Jordan

125 Broad Street  
New York, New York 10004  
(212) 558-4000

*Counsel for UBS AG, UBS Securities LLC,  
Howard Capek, Benjamin D. Lorello and  
William C. McGahan*

Helen Gredd  
LANKLER SIFFERT & WOHL LLP  
500 Fifth Avenue  
New York, New York 10110  
(212) 921-8399

*Counsel for William C. McGahan*

Robert J. Anello  
Richard F. Albert  
MORVILLO, ABRAMOWITZ, GRAND,  
IASON, ANELLO & BOHRER, P.C.  
565 Fifth Avenue  
New York, NY 10017  
(212) 880-9560

*Counsel for Benjamin D. Lorello*